
(2014) 10 BOM CK 0001

In the Bombay High Court

Case No : Writ Petition No. 8256 of 2013

Shivaji University Teachers Association (SUTA)

APPELLANT

Vs

State of Maharashtra

RESPONDENT

Date of Decision : 13-10-2014

Acts Referred:

Citation : (2016) 1 ALLMR 294 : (2015) 1 BomCR 225 : (2014) 6 MhLj 594

Hon'ble Judges : Anoop V. Mohta, J; A.S. Gadkari, J

Bench : Division Bench

Advocate : C.G. Gavnekar, Advocate for the Appellant; S.S. Bhende, AGP, Advocate for the Respondent

Judgement

A.S. Gadkari, J.—Rule. Rule made returnable forthwith. By consent of the parties, the petition is heard finally at the stage of admission itself. Petitioner Nos. 2 to 19 are the retired teachers from the various colleges affiliated to the Shivaji and Solapur Universities. Petitioner No. 1 is an association of the teachers working in the colleges affiliated to the said universities. Petitioner Nos. 2 to 19 retired between 1-1-2006 and before 1-9-2009 from various colleges in the State of Maharashtra. The University Grants Commission changed the qualifying service for retirement benefits from not less than 33 years to 20 years and the amount of pension was required to be calculated at 50% for the pensionable pay. Thus, the qualifying service from 33 years came to be reduced to 20 years in case of University Teachers entitling them for the benefit of full pension from 1-1-2006. That the said revision of qualifying service was pursuant to the 6th Pay Commission. The respondent-State of Maharashtra thereafter issued a Government Resolution dated 30-10-2009 thereby making the qualifying service of 20 years for the pensionary benefit only to those employees who had retired after 27-2-2009. As a result, those teachers who have retired after 1-1-2006 and before 1-3-2009 were excluded from receiving full pension on completion of 20 years of the qualifying service. Petitioner Nos. 2 to 19 fall in the said category and were not given the enhanced pension.

2. A Writ Petition No. 5284 of 2011 was filed by the Association of College and University Superannuated Teachers in the High Court of Bombay, Bench at Aurangabad challenging the Government Resolution dated 21-8-2009 wherein similar issue was involved for fixing a cut off date of 1-9-2009. The Division Bench of this Court by its judgment dated 26-9-2011 was pleased to dismiss the said petition thereby upholding the said Government Resolution dated 21-8-2009. The petitioners therein thereafter preferred the S.L.P. bearing No. 3700 of 2012 wherein a leave came to be granted and the Civil Appeal No. 908 of 2013 came to be allowed by the Supreme Court. The Supreme Court while allowing the said Civil Appeal was pleased to set aside the impugned judgment and order dated 26-9-2011 passed by the High Court of Bombay, Bench at Aurangabad. The Supreme Court held that the cut off date i.e. 1-9-2009 specified in the Government Resolution dated 21-8-2009 is unconstitutional and was further pleased to hold that the employees governed by the Resolution dated 5-5-2009 are entitled to the benefit of enhanced gratuity i.e. Rs. 7 lakhs.

3. The petitioners thereafter preferred a Writ Petition bearing No. 6369 of 2013 in this Court thereby claiming the benefit of higher amount of gratuity on the basis of judgment and order dated 30-1-2013 passed by the Apex Court in the case of Association of College and University Superannuated Teachers vs. Union of India and ors., Civil Appeal No. 908 of 2013. The Division Bench of this Court by its judgment and order dated 3-9-2013 disposed of the said petition by passing following order:--

(I) We direct the second respondent to scrutinize the cases of the petitioner Nos. 2 to 142 for grant of benefit in accordance with the Judgment and Order dated 30th January, 2013 of the Apex Court in Civil Appeal No. 908 of 2013;

(II) We grant time of three months to the second respondent to scrutinize the cases of the aforesaid petitioners. The benefit of the order passed by the Apex Court shall be extended to those who are found to be on par with the Members of the Association of College and University Superannuated Teachers, which was the appellant before the Apex Court;

(III) We direct the State Government to take a policy decision on the basis of the order of the Apex Court dated 30th January, 2013, within a period of four weeks from today;

(IV) Though we have disposed of the above petition with the aforesaid directions, for reporting compliance, the petition shall be placed on the Daily Board on 14th October, 2013 under the caption of "Directions".

4. The petitioners have filed the present petition praying that by writ of mandamus and/or by appropriate writ, direction and order, the respondents be directed to pay petitioner Nos. 2 to 19 difference in enhanced pension payable in terms of Government Decision No. SEVANIVE/1009/PRAKRA.33/SEVA-4 dated 30-10-2009 by fixing cut off date as 1-1-2009 along with the interest. When the petition came up on earlier occasion for hearing, it was submitted on behalf of

the respondent-State of Maharashtra that they have preferred a Review Petition against the judgment and order of the Supreme Court dated 30-1-2013, and therefore, they sought time for complying with the order passed by this Court in Writ Petition No. 6369 of 2013 dated 3-9-2013.

5 Mr. Gavnekar, the learned Counsel appearing for the petitioners submitted that the said Review Petition bearing No. 1659 of 2013 in Civil Appeal No. 908 of 2013 has been dismissed by the Supreme Court by its order dated 23-3-2013. He further submitted that the petitioners in Writ Petition No. 5284 of 2011 in High Court of Bombay, Bench at Aurangabad and the appellants in Civil Appeal No. 908 of 2013, initiated contempt proceedings. He further submitted that even the Curative Petition (Civil) No. 156 of 2014 taken out by the State of Maharashtra in Review Petition (Civil) No. 1659 of 2013 came to be dismissed by the Supreme Court by its order dated 12-8-2014 and therefore there is no other alternative to the respondents, but to comply with the directions given by the Supreme Court in Civil Appeal No. 908 of 2013 and subsequently by the Division Bench of this Court in Writ Petition No. 6369 of 2013 by its order dated 3-9-2013.

6. The learned AGP on the other hand submitted that during the pendency of the contempt proceedings, the State of Maharashtra has deposited an amount of Rs. 32 Crores in the Registry of the High Court of Bombay, Bench at Aurangabad and the same shall be distributed to all the concerned as early as possible.

7. In view of the said submission, we have no hesitation in allowing the present petition in terms of prayer clause (a) which reads as under:

"(a) that by Writ of Mandamus and/or by appropriate Writ, Direction and Order, Your Lordship be pleased to direct the respondents to pay the petitioner Nos. 2 to 19 difference in enhanced pension payable in terms of Government Decision No. SEVANIVE/1009/PRAKRA.33/SEVA-4 dated 30-10-2009 by fixing cut off date as 1-1-2009 along with the interest."

8. In the result, the present petition is allowed in terms of prayer clause (a). The respondents are hereby directed to pay to the petitioners the difference of enhanced pension within a period of 3 months from the date of receipt/production of copy of this order. Rule is made absolute accordingly. All the concerned to act on the authenticated copy of this order.